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REMARKS

This paper is responsive to the Office Action dated February 22, 2005. All rejections and objections of the Examiner are respectfully traversed. Reconsideration and further examination are respectfully requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone David A. Dagg, Applicants' Attorney at 617.630.1131 so that such issues may be resolved as expeditiously as possible.

At paragraphs 1 and 2 of the Office Action, the Examiner rejected claims 1-9, 11-13, 15-23, 25-27, 29-37, 39-41 and 43 for obviousness under 35 U.S.C. 103, citing United States Patent 5,687,167A of Bertin et al. ("Bertin et al.") in combination with United States Patent 6,771,661B1 of Chawla et al. ("Chawla et al."). At paragraph 3, with regard to claims 10, 14, 24, 28, 38 and 42, the Examiner additionally cited United States Patent 6,459,682B1 of Ellesson et al. ("Ellesson et al."). Applicants respectfully traverse these rejections.

As noted previously, Bertin et al. provide background disclosure stating that bandwidth management in most high speed packet communications networks utilizes connection level controls applied *at the time the connection is set up* based on the load characteristics of the transmission links in the connection route. As described in the Bertin et al. background, such connection level controls include bandwidth allocation, path selection, admission control and call set up. Bertin et al. teach that bandwidth allocation may be accomplished *at connection set up time*, using the "equivalent capacity" loading that the new connection will generate, based on the traffic characteristics of the source signal and the desired quality of service. As the Examiner

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notes in the Office Action, Bertin et al. includes no disclosure regarding receiving indications of future activation times at which resources to be activated.

Chawla et al. disclose a system which enables a data communications device to be programmed to automatically and dynamically modify allocation of resources upon the occurrence of specific events or times without having to break active sessions of data communications. Resource allocations in Chawla et al. are made by bandwidth reservations provided to a data communications device that specify a session of data communication and future bandwidth modification information, such as a time or event, that will cause the data communications device to modify an amount of bandwidth reserved for the specified session of data communications at that data communication device. The data communications device of Chawla et al. modifies an amount of bandwidth allocated to a session of data communication based upon the future bandwidth allocation modification information and event information such as a time signal from a clock or another event signal. The data communications device of Chawla et al. detects the occurrence of the future event *in the data communications device* and in response to detecting its occurrence, can modify the amount of bandwidth allocated to the session of data communications *in the data communications device*. In order for the Chawla et al. data communication devices to be controlled, Chawla et al. teach extensions to a bandwidth reservation protocol such as the RSVP protocol are defined which allow RSVP bandwidth reservation messages to specify the future bandwidth modification information.

Ellesson et al. teaches a system for controlling packet traffic in a network of originating, receiving and intermediate nodes to meet performance objectives established by service level agreements.

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Nowhere in the combination of Bertin et al. and Chawla et al., or of Bertin et al., Chawla et al. and Ellesson et al., is there disclosed or suggested any system or method for allocating resources on a network, including:

receiving a request for reservation of network resources, the reservation including a destination address on the network;

receiving data indicating a future activation time that the resources are to be activated; and

allocating resources on network devices on a path to the destination address to accommodate the reservation if the network devices have sufficient resources to accommodate the reservation, *wherein the allocating is at the future activation time, and wherein the allocating includes communicating over the network at the future activation time with at least one policy enforcement point, wherein the policy enforcement point is on the path and at an edge of the network, wherein the communicating includes configuring the at least one policy enforcement point by installing at least one internet protocol traffic filter in the policy enforcement point.* (emphasis added)

as in the present independent claims 1, 15, 29 and 43. In contrast, Bertin et al. teaches resource allocation that is performed at the time a connection is established. Since Bertin et al. is directed towards resource allocation at *connection time*, it accordingly includes no teaching or disclosure of the desirability of providing for resource allocation *at a future reservation time that includes communicating over a network to a policy enforcement point on a path to a destination address, or of installing an internet protocol traffic filter in such policy enforcement point at the future reservation time*, as in the present independent claims. While Chawla et al. discloses a system for changing the bandwidth allocated to a previously established session without re-establishing the session, it teaches a system in which the reservation protocol must be extended to indicate future reservations of bandwidth that are performed within the networking devices in response to the extended protocol. As described in Chawla et al., the actual bandwidth change is

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performed in response to events *that are detected within the network devices after receipt of the reservation messages, and where the bandwidth reservations are performed within the network devices in response to detection of the events.* Thus the activities at the reservation time in Chawla et al. do not include communicating internet protocol traffic filters over the network to policy enforcement points on the path to a destination address, as in the present independent claims. With regard to filters, Chawla et al. disclose only the use within RSVP of "filterspec parameters to filter each packet (data in) that arrives at the device to determine the route and queue for the packet within the data queuing mechanism 105." See Column 3, lines 35-46 of Chawla et al. Ellesson et al. is similar to Bertin et al. in that it includes no suggestion of even a need or possibility of providing resource allocation *at a future reservation time that includes communicating over a network to a policy enforcement point on a path to a destination address, or of installing an internet protocol traffic filter in such policy enforcement point at the future reservation time,* as in the present independent claims.

While Applicants maintain that the combinations of Bertin et al., Chawla et al. and Ellesson et al. do not teach or suggest the present invention of independent claims 1, 15, 29 or 43, Applicants further respectfully urge that the Examiner has also not established a sufficient motivation to combine the cited references. A *prima facie* case of obviousness under 35 U.S.C. 103 must include a showing of a suggestion, teaching or motivation that would have led a person of ordinary skill in the art to combine the cited references in the particular manner claimed. See *In re Dembiczak*, 175 F.3d 994, 998 (Fed. Cir. 1999), and *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000). "[C]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight." *Dembiczak*, 175 F.3d at 999. In

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the present application, Applicants respectfully urge that the Examiner has not provided any motivation to modify the teachings of Bertin et al. or Ellesson et al. to provide future resource reservations in any way, or to modify the teachings of Chawla et al. to provide the claimed technique for providing future resource reservations as set forth in the present independent claims 1, 15, 29 and 43, which fundamentally differs from the approach taken in Chawla et al., as discussed above. This is impermissible, since the teaching or suggestion to make the claimed combination, and the reasonable expectation of success must both be found in the prior art, *not in applicant's disclosure*. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

For the above reasons, Applicants respectfully urge that the combination of Bertin et al. and Chawla et al. does not disclose or suggest all the features of the present independent claims 1, 15 and 29, from which claims 2-9, 11-13, 16-23, 25-27, 30-37 and 39-41 depend. Accordingly, the combination of Bertin et al. and Chawla et al. does not form a *prima facie* case of obviousness under 35 U.S.C. 103 with respect to the present independent claims 1, 15, 29 and 43, and dependent claims 2-9, 11-13, 16-23, 25-27, 30-37, 39-41 are believed to be patentable over the combination of Bertin et al. and Chawla et al. for at least the same reasons. Similarly, Applicants respectfully urge that the combination of Bertin et al., Chawla et al. and Ellesson et al. does not disclose or suggest all the features of the present independent claims 1, 15, and 29, that the combination of Bertin et al., Chawla et al. and Ellesson et al. therefore does not form a *prima facie* case of obviousness either under 35 U.S.C. 103 with regard to these independent claims, and dependent claims 10, 14, 24, 28, 38 and 42 are believed to be patentable for at least the same reasons.

Applicants further respectfully urge that the Examiner has also not established a sufficient motivation to combine the cited references

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Reconsideration of all pending claims is respectfully requested.

For these reasons, and in view of the above amendments, Applicants respectfully urge that all rejections of the Examiner should be withdrawn. This application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date

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